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# The Advocate

The Advocate, Fordham Law School

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# The Advocate

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## ON PRISONS:

### Why do we punish those who break the law?

While there is perhaps a general agreement that criminals should be punished, we have still not come to terms with a more basic question; why should they be punished? The prevailing view among those members of the community interested in such questions is that the purpose of punishment is to rehabilitate the criminal. Yet the high rate of recidivism has shown that our penal institutions have failed in this regard. There are probably two reasons for this. First, the prison community provides an inmate with contact with more experienced convicts and provides him with greater "know-how" upon release. Second, the conditions prevalent in the prisons are likely to cause greater alienation and hostility so that a released prisoner is more, not less, likely to commit anti-social acts upon his release.

It would probably be helpful to examine what some thinkers of the past have said about this question. While this essay certainly does not pretend to be a detailed history of penal theory, it might prove enlightening to know that problems that we often find so difficult to deal with have been points of controversy in the past and to say the least, are not new questions.

Most penal theories can be divided into one or more of the following categories; retribution, rehabilitation, vengeance and deterrence. Yet, what all civilized societies have in common is the elimination of the legitimacy of private vengeance. If a person is wronged, the society will punish the wrongdoer.

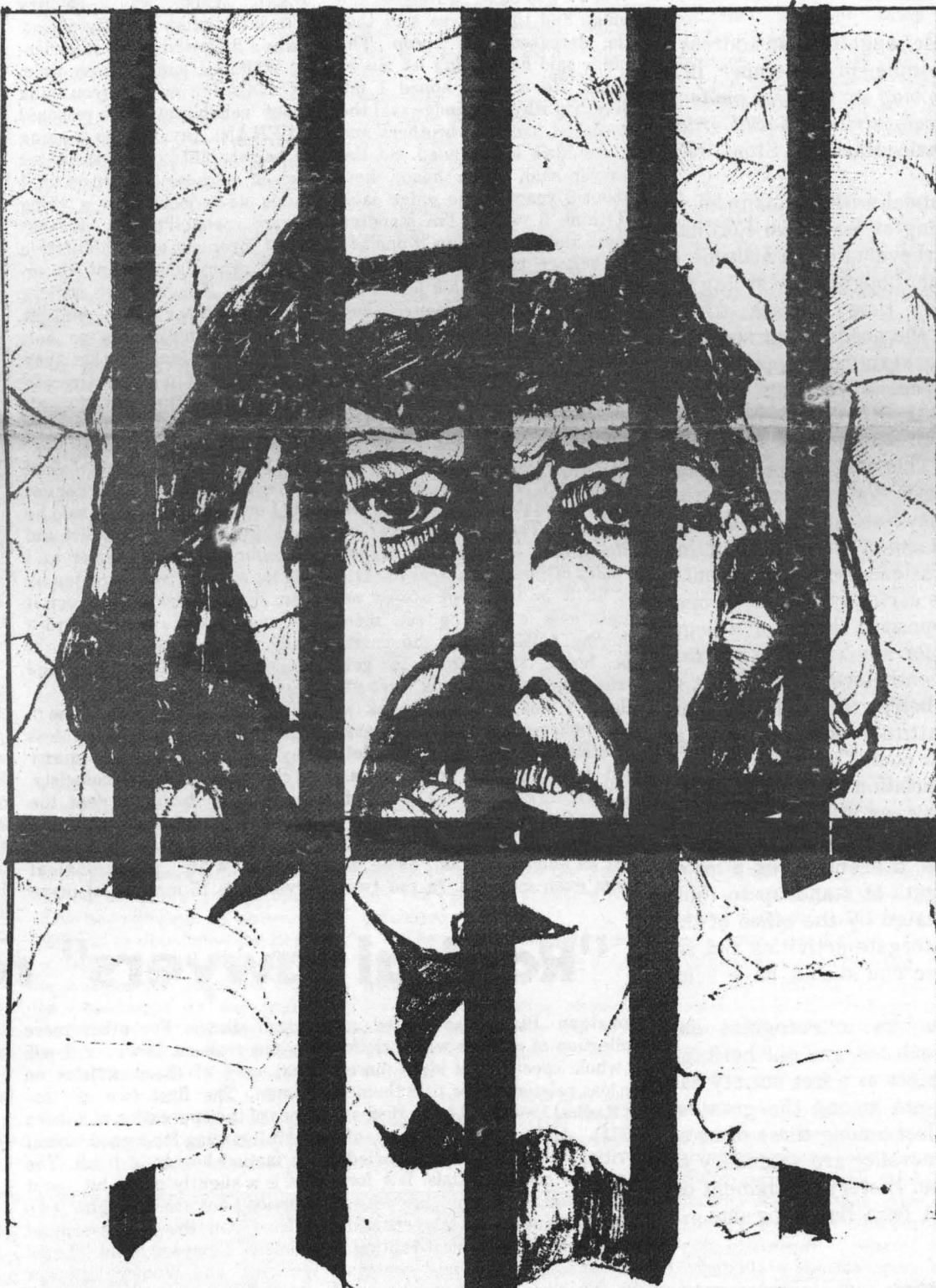
Probably the first written criminal laws were contained in the Code of Hammurabi (circa 1750 B.C.) The punishments listed here were harsh but limited according to the crime. Thus a man who destroyed the eye of another should lose an eye. A man who struck his father would lose his fingers. However, some 350 years before this, under King Ur Nammu of Sumeria, there was a system of restitution and monetary fines rather than the infliction of pain for punishment of wrong-doers, a true concern for the victim since he would be made whole for his losses.

Plato wrote that no man should be punished because he did wrong because his wrong could never be undone. Punishment was necessary so that other members of the community would learn to hate injustice or at least abate their instincts for evil doing. The so-called retributionist school, exemplified by Kant and Hegel theorized that the punishment for crime was a right in itself. Its purpose was not deterrence or reformation. A crime upsets the moral order and a balance could only be struck when the criminal is punished by his being made to suffer. Thus punishment is a categorical imperative required by a higher law.

According to Dr. Karl Menninger, Nietzsche's view was: "Along with the stone, we cast our own sins onto the criminal. In this way we relieve our own sense of guilt without having to suffer the punishment—a convenient and even pleasant device for it not only relieves us of our sin but makes us feel actually virtuous."

In effect, this is an attempt to prevent anomie, a sense of rootlessness and purposelessness that develops when traditional boundaries and values deteriorate. If crime is wrong, we must reaffirm the sense of wrong by punishing the criminal. It is the punishment that tells us that the act is wrong. It tells us that our values are still intact.

Modern penal thought is probably most influenced by



utilitarian theories. Of this school of thought, Bentham was the most influential regarding crime and punishment. To Bentham, punishment was only justified when it tended to exclude a greater evil, and its sole function was to deter others from doing the same. Only those who voluntarily broke the law should be punished since the aim of such punishment is to prevent willful crimes. He wrote extensively concerning extenuating circumstances such as insanity pleas and other states of mind that might vitiate punishment. Yet it has been pointed out

that this is a contradiction from the purely utilitarian viewpoint. Since punishment of all wrongdoers would tend to prevent others from similar acts, why not also punish those who committed crimes without total willful intent? Would not punishing the insane have a deterrent effect on all potential perpetrators. Bentham was apparently tempering what would be a strictly utilitarian position with a humanitarian concern about punishment those who did not understand the consequences of their acts. As stated by Professor H.L.A. Hart:

### The case of Ralph G.

When a poor man becomes a defendant in the Criminal Justice System, his future is largely dependent on those few individuals who participate in the processing of his case, and most especially his lawyer. This is particularly true of the man with no family, no friends, and little or no education. Such a man is Ralph G. Unfortunately for Mr. G., the one man who might have helped him—his lawyer, Mr. S.—failed him totally. And Mr. S.'s failure has cost Mr. G. almost two years of his life.

Ralph G., age 30, has been enmeshed in the web of the Criminal Justice System since his arrest on November 7, 1970. He was arraigned on two counts of homicide in New York County Criminal Court on November 8, 1970, and indicted in the Supreme Court on

December 29, 1970. He is charged with the murder of two friends who died as a result of falls from the window of his apartment.

It is now almost two years since Mr. G.'s arrest, and virtually nothing has happened in the case of People v. Ralph G. During these many months, G. has been confined in the Manhattan House of Detention ("the Tombs"), cut off from the world outside and wholly uncertain of his fate.

Mr. G. is a big, outspoken Black man of Puerto Rican descent, with no history of drugs or alcohol and no previous criminal convictions. His education took him through the tenth grade. Before his arrest in 1970 he worked for 11 years as a messenger for Western Union and as a taxi driver in the City.

His troubles began to surface in 1966. In that year Mr. G.'s wife, whom he had married two years earlier, left him and took their two-year-old son to live with her mother. Because of this Mr. G. suffered a mental collapse and was hospitalized after attempting to commit suicide by taking an overdose of pills. Shortly thereafter, Mr. G. was arrested for the first time in the Bronx on a sodomy charge, of which he was later acquitted. By 1969, he had been arrested again and charged with rape and third degree robbery. These charges were dismissed in 1970, when the complaining witnesses failed to appear in court.

Today Mr. G. stands accused of the murder of Jose P., his friend and neighbor, whose body dropped to the pavement from the window of Mr. G.'s apartment on October 9, 1970. Mr. P. was 40 years old. Mr. G. had known him about two years. Although Mr. P. smoked marijuana, he did not use hard drugs; however, he was a heavy drinker and an epileptic. Mr. G. says he was sleeping when Mr. P. died and does not know anything about the circumstances surrounding Mr. P.'s death but speculates that Mr. P. was probably intoxicated when he died.

Mr. G. is also charged with the murder of one of his girlfriends, who similarly fell, jumped, or was pushed from his apartment window 17 days after Mr. P., on October 26, 1970. Mr. G. says she had lived with him since October 3, 1970, that she was a heavy drug user, a prostitute, and a lesbian, and that he was trying to help her. Mr. G. adds that she

"First, actual punishment of those who act unintentionally or in some other normally excusing manner may have a utilitarian value in its effects on others; and secondly, when because of this probability, strict liability is admitted and the normal excuses are excluded, this may be done with the sense that some other principle has been overridden."

Enlightened voices in the United States in the nineteenth century called for reform of criminals as the aim of the penal system. For example, the American Correctional

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## The Advocate

The student newspaper of Fordham University  
School of Law

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we would like to thank William Arnone and the Legal Advocate Program of the Board of Corrections for the Story of Ralph G., Susan Roth of the Midnight Special for all the help she gave us, and Betty Aas for her drawings.

## Watergate, etc

*Here at Fordham, we are not concerned with goodness and beauty and Consciousness III. All we care about is will it stand up in court.*

Dean McLaughlin at an address to incoming freshmen in September, 1971.

*To whom, if not to the lawyer, may we look for guidance in solving the problems of a sorely stricken social order?*  
Justice Harlan F. Stone, 1934.

In light of the Watergate scandal with so many of its principals being lawyers, including at least two Fordham graduates, perhaps it is time to reevaluate the attitude of the Dean and of those with similar thoughts concerning the responsibilities of lawyers. Isn't time we ask, "Is it ethical?", or "How will this serve the needs of our society?"

Because of our educational background, supposed perception of human behavior and society's workings, we have an obligation as lawyers to deal with all the consequences of our actions. We must not excuse all our behavior because it is in the interest of our clients. This attitude perpetuates some of the worse ills of our society. Sometimes we can go too far in serving our clients, as Watergate has demonstrated. We have seen the spectacle of lawyers extorting illegal contributions from corporations, burning evidence, approving burglaries, etc. This is certainly not the proper activity for those who are supposedly heirs of a legal system with a history of respect for human rights and due process of law that dates back even before the founding of our nation. Yet lawyers too often betray this tradition. This is partly because of the very attitude fostered here at Fordham, "...will it stand up in court?"

Orville Schell, head of the Association of the Bar of the City of New York, stated: "A lawyer is supposed to be objective and stand up to his clients and guide him in ethical—not merely legal channels. It seems to us a lot of these men just didn't have the guts to stand up to their client; perhaps they were intimidated by the office of the President. But with both the Watergate activities and so-called White House horrors, some one should have said: 'You're crazy, you can't do it.'"

Now is a good time for lawyers to recognize our responsibility to our society, our culture, and our heritage as well as to our clients. Our existence as a free society has received a severe jolt, with lawyers among the greatest culprits. This lesson must not be lost among those of us at Fordham who believe ethics and morality are secondary to serving a client and winning a case. History's judgment on unprincipled mouthpieces will not be a flattering one.

## A Matter of Conscience

Perhaps it is indicative of the times that the reports of executions in Chile have stirred so little outrage. In fact, on the same day that an American couple told of personally seeing up to 500 people executed—the U.S. Government recognized the new "government." It is not enough that we do our briefs studiously, that we have great resumes, that we interview well. ... to ignore acts of inhumanity is to lose part of one's own humanity. We do not expect the United States Government to have a conscience, but it is indeed a terrifying realization that perhaps we are losing ours.

## Advocate Interview

Paul Meehan is a native of New York City in his late twenties who pleaded guilty to manslaughter after killing a man he found with his ex-wife. Sentenced to 4 years, he did six months at Auburn and Sing-Sing, and a year and a half at Walkill.

ADVOCATE: Did you have private counsel or Legal Aid? MEEHAN: I had a private lawyer, or rather a private schmuck. He was a retired police captain, a graduate of Fordham Law School.

I think basically I was in a state of numbness through the initial proceedings. I was held without bail because I was a mad-dog. I guess I got my rabies shots because they set bail at \$5,000 a few days later.

The one thing that impressed me about the system of justice is how much bullshit is really involved. From who you know right down to the actual plea bargaining, which was a joke. When I was being sentenced, the judge and the lawyer said that the deceased was a cop. The judge said he couldn't let me go home. He said he hoped I understood why. The judge said the deceased had four brothers and it wouldn't have ended. So the lawyer said, "Your honor, how about 3 years?" The judge said, "I think 5 years." I'm standing there and I'm thinking "I don't f--- believe this, they're talking about years of my life like it's a ping-pong ball." Finally, they said, "How about 4 years?" and that was it.

ADVOCATE: Tell me about prison.

MEEHAN: The good parts, the bad parts?

ADVOCATE: Sum it up.

MEEHAN: Prison is the most vacuous state you could ever imagine. There's no way of summing it up. It's just a continuity of emptiness. And you try to fill it in the most stupid or repititious way. You see men chasing balls around the court for hours at a time to get exhausted so they could sleep at night. I was reading a book a day, believe it or not. That was after a speed reading course. Not just trash, pretty good books. ADVOCATE: How did you find guards?

MEEHAN: For the most part, just as human as I am. Some of them even more so. In the two

years I was away, I found one lieutenant who was a real prick and he was offset by a lieutenant who was really nice to me personally, but regarding others he was considered a bastard.

I was taking college courses in criminology, sociology, and psychology. He took me aside and gave me a pile of books he had just finished with since he was taking courses himself.

I had no complaints with the guards. My complaint was being in prison, which was definitely not my bag; killing people was not my bag, either.

ADVOCATE: Tell me about race relations in prison.

MEEHAN: Race relations in prison are almost non-existent; except when they concern hate or fears. There was always ulterior motives, like dealing for favors, looking to nail somebody, making somebody a kid.

ADVOCATE: Where were you held?

MEEHAN: Auburn, Sing-Sing, Walkill. Walkill was a country club, a minimum security prison. I was a lifeguard and a librarian. At Walkill, I just did easy time.

ADVOCATE: What do you think about "rehabilitation" in prisons?

MEEHAN: Anyone who is going to be rehabilitated rehabilitates himself, because the prison as it exists now doesn't do a thing toward rehabilitation. Prisons aren't meant to be rehabilitative places. They are meant to incarcerate. That's what society wants, whether they bullshit about social awareness or not. They serve a function that they were designed to do: incarcerate people to keep them out of sight. ADVOCATE: What were medical and dental services like? MEEHAN: Horrendous. I had my teeth examined. The dentist said I needed a filling. He said he would put my name on a list and get to me in four months or so. I said the tooth might be rotten by then. He said, "Oh, we can pull it anytime." At Walkill, we had a really great dentist. He bought thousands of dollars of stuff and they fired him.

The psychological care I saw in prison was negligible. Unless they hired a great many psychiatrists and psychologists, they couldn't begin to dent the problems that exist.

In the two years, my total contact with psychological service was 15 minutes of inane

questions, and we could have used the help because prison is not very good for the head.

I saw the Protestant chaplain at Walkill for about an hour a week. He was a compassionate man and he was useful to me. I think he was a frustrated man because he was walking a tightrope between staying on the right side of prison authorities and still helping people.

As for regular medical services, I had a very bad experience. I was having a lot of abdominal pains and the prison authorities felt it was an inoperable ulcer. Three or four months after release from prison I was operated on for a stomach tumor which had been in existence for about a year.

So the medical treatment was as excellent as the dental treatment. I waited on sick call for as much as three hours for two Maalox tablets when I was so doubled up with pain that I thought I was going to scream. But you can't scream because then they think you're flipping out and they put you in a box.

ADVOCATE: What do you think about Attica?

MEEHAN: I think it will happen again. I think they should separate first offenders from hardened criminals. In this respect I guess I'm pretty conservative. Out and out hardened criminals should either be executed or put away for life. This might sound strange, but this is where my head is at.

As for Attica, I would have tried not to participate. I just wanted to do my time and get out. I heard about the brutality that went on driving the suppression but at the same time I resent the fact that so many prisoners were there against their will. I can empathize with them psychologically; it's so easy to go off the wall. So my feelings about Attica are ambivalent.

ADVOCATE: Do you have any final thoughts?

MEEHAN: The need for employment after release is one of the convict's greatest concerns. I was lucky. I was working inside of a month after getting out, but I know of guys who can't get a job for shit. There are too many areas where the stigma of prison prevents getting a job and the stigma ought to be removed as far as possible.

## "Radical lawyers" reviewed

Jonathan Black has edited a collection of articles which treat a whole spectrum of ideas more or less related to the title theme of *Radical Lawyers* (Avon Books, 1971). Although the group of writings includes such varied topics as court-martials, law for the poor, women lawyers, political trials, black lawyers and even some pure radical ranting, all discussion eventually centers on the question of whether a radical lawyer should be one who merely "services" the movement or one who is a radical in every aspect of his career. Most never really come to grips with the question at all because underneath there looms large and unanswered the question of the validity of the "movement" itself.

There are thirty different articles and the same basic criticisms can be levelled at all of them. Interestingly enough, Mr. Black, movement lawyer extraordinaire, saw fit to place the five articles about women's rights conspicuously toward the rear of the book—a move indicative of some of the basic weaknesses in his own cherished

radical stance. For other more obvious reasons, however, I will treat only of these articles on women. The first two are exposes of the oppression of women and interesting for a good look at the factual horror of it all. The last is a slightly passe bit about abortion but the middle two articles "On the Oppression of Women Lawyers and Legal Workers" and "Women Lawyers and the System of Oppression" are classical radical harangues. Both these writers skim rather lightly over the question of feminism although paying a lot of lip service to it and actually dig right into the establishment which is keeping everybody down. Like their brother radicals these women exhibit a glaring lack of historical perspective and psychological insight. By lack of historical perspective I wish to indicate that these "radical" articles have their own overtones of facism. One can feel outraged at the conditions they denounce yet cannot feel free to pick up their banner because it seems their most overpowering drive is the desire to replace the

existing power structure of their own—a new hierarchy and ethos which do not promise to be any more benign than those already around. How can anything better come out of so much hate and exhortations to violence. Because these authors seem to lack psychological insight into the creatures who inhabit this planet, they do not understand that the problems which they cry out against are not political problems but human problems. Unless such horrors as avarice, suspicion and prejudice are dealt with as problems of the human condition rather than outgrowths of a particular system, then one corrupt power will simply replace another for it is a human problem that power corrupts and absolute power corrupts absolutely.

Other interesting issues raised in the articles include a continual denial of the authors of the intellectuality of lawyers. It is part of reality that some people are smarter than others although it is no accident that only certain ones will ever receive training.



## Work release in the Nassau County jail

A work release program was instituted in the Nassau County Jail in May of 1969 which to date has accommodated two hundred and twenty-three inmate participants.

The theory of the program is: "The underlying principle of the incarceration of an offender is not merely punishment. Its purpose is to supervise a learning process whereby he is helped to become a productive member of society, capable of contributing to that society and accepting his own responsibilities."

"A work-release program in a jail provides sentenced prisoners with the privilege of leaving confinement to be gainfully employed, take vocational training or attend an educational program. In the case of female prisoners, it provides for release from confinement during necessary and reasonable hours to care for her family."

The program is authorized under the Correction Law of the State of New York. Prison officials consider the advantages of this program to be the conservation of tax-payers money by having the prisoners on Work-Release reimburse the county for his room and board, keeping the families of the men off the welfare rolls by giving a portion of their earnings to the family for its support, helping to pay off any debts that a prisoner may have incurred prior to his imprisonment, and most importantly in aiding in the rehabilitation of the prisoner.

Work-release prisoners are housed separately from the general inmate population "for reasons both of security and inmate morale." Plans have been approved for construction of modular dormitory type buildings to house one-hundred Work-Release inmates. This is being funded by a grant of \$653,000 from the U.S. Law Enforcement Assistance Administration.

At present, although security is less strict than for other areas of the prison, inmates are subject to a strip search before leaving for the program and upon their return to prevent the introduction of contraband into the prison. Of course, regular field inspections are made to determine whether the inmate is abiding by the rules of the program, whether he arrives at and leaves the job according to the schedule, etc.

The program is under the supervision of Michael P. Seniuk, Sheriff of Nassau County, to whom the inmates apply for participation. Any refusal of participation or revocation or suspension of Work-Release privileges is reviewable by the

## Lawyers....

Yet it is no solution to the puzzling problem of human equality in an obviously unequal world to simply deny lawyers their intelligence—and, the fact that they enjoy it often and can escape it never.

In wrapping up, it should be noted also that many of these young authors are driven by their own personal desires for notoriety. They are, in their writing, forging a philosophy to fit their lifestyle—one which has already been forged by psychological forces many of which will never be known to the individual. But in this respect, we all stand equal.

To those of you still trying to keep your minds open to all sides of the coin, the book is good for solid if temporary wedging between the door and the jamb.

State Commission of Correction but the Commission's decision is not subject to judicial review. An inmate whose history or behavior indicate that he would be unsuccessful in the program or that he would endanger those in "free society" receives "particularly cautious screening." This category includes sex-offenders, drug addicts and alcoholics, but these individuals are not barred from participating in Work-Release.

The program is supported by a variety of services for the participating inmates. There is the Advisory committee which includes a judge of the Family Court, a member of the jail clergy, a representative from the Department of Social Services, as well as prison personnel. An Employment Bureau is assigned to seek employers who are willing to employ inmates, arrange vocational training programs, and to act as liaison between the jail and employers to chart to progress of the inmates.

The wages earned by the inmates are dealt with in several ways. A portion is given to his family in an amount to be determined by the Department of Social Services. A trust fund is established for the remaining amount. This is to be returned to the inmate after his release. This fund is not subject to attachment or garnishment. Also, each participant is charged \$5.00 per day for room and board under the theory that this will afford him an opportunity to demonstrate a self-respect and sense of dignity that will be essential when he is released from confinement.

Prior to 1973 drug addicts were denied participation in the program but in the early part of this year, a federally sponsored drug antagonist program was established. Inmates who wish to participate take the drug cyclozocine which counteracts the effect of heroin, thus making it impossible to get high on the latter. According to Lt. Philip C. De Julio, the Commanding Officer of the Rehabilitation Unit, there are now nine former addicts participating in the Work-Release program.

Sheriff Seniuk believes the program to be "extremely successful," there being only four instances where the privileges have been abused. However, it is difficult to determine the degree of risk of the prisoners selected or whether the county is willing to experiment on marginal inmates. Yet, this is the type of program that could go far to make it easier for the inmates to adjust from, as County Executive Ralph Caso put it, "a highly regimented installation to the full freedom of society."

## Ralph G...

went "crazy" a few days before her death and he believes she may have jumped from the window, not knowing what she was doing.

The police questioned Mr. G. after each of the deaths and warned him not to leave the area. However, on the evening of November 7, 1970, Mr. G. attempted to move from the apartment because, he claims, the landlord wanted him out. He was promptly arrested by a detective from the 30th detective squad. Mr. G. thinks that Jose P.'s girlfriend called the detective and warned him that G. was moving. The detective has since been reassigned and could not be reached for an interview.

At this point, Mr. G. sought the legal services of Mr. S., who at 60 years of age is one of the most prominent Hispanic members of the bar in New York City. Mr. S., whose initial \$200 retainer was paid by Mr. G.'s employer at the cab company and by Mr. G.'s father, acted as Mr. G.'s attorney for 17 months. Mr. S. would not answer any questions concerning the case, but from the court record and interviews it is apparent that while he was Mr. G.'s attorney (November 1970 to April 1972), the case moved very slowly through the Criminal Justice System. On January 14, 1971, Mr. G. appeared before a Justice of the New York County Supreme Court and pleaded not guilty. Because of the nature of the charge, no bail was set.

Mr. G. says that Mr. S. never came to prison to confer with him and sent him but one letter. He claims that his lawyer never sought background information necessary to conduct an investigation and as far as he knows, never interviewed any witnesses or conducted any kind of investigation into the case. In addition, Mr. G. declares that Mr. S. only appeared once in Criminal Court and three times in Supreme Court, although Mr. G.'s case has appeared on the

calendar about 55 times in the last two years.

On May 10, 1971, Mr. S. filed a motion to inspect the minutes of the Grand Jury, to examine the notes of the arresting officer, and to examine statements made to the Assistant District Attorney by Mr. G. and the State's witnesses prior to arraignment. The motion was denied. According to Mr. G., six weeks after the motion was denied, both the Assistant District Attorney and Mr. S. urged Mr. G. to plead guilty to manslaughter, in return for a ten-year sentence. Mr. G. refused the deal and demanded a trial, insisting he was innocent.

It is impossible to find any movement in the case during the next year. Court records list at least 20 court dates between April 1971 and April 1972 on which nothing occurred. The case was marked ready for trial once on June 16, 1971, and again in November 1971, but no trial was held. According to the Assistant District Attorney, the case was not heard because Mr. S. did not appear or was not ready. Further, the Assistant District Attorney said he could not understand Mr. S.'s action because, as far as he knew, the lawyer had a "good reputation." In any event, because Mr. G. had refused to plead guilty, Mr. S. withdrew from the case in April 1972.

After Mr. S.'s withdrawal, two lawyers were appointed by the court to represent Mr. G. Soon after their appointment, they asked the judge to order a psychiatric examination for Mr. G. The motion was granted on May 10, 1972, and the case was adjourned until June 14. Because the doctors needed more time for an evaluation and because the Judge was tied up in a trial, the case was adjourned again to August 23. On that date the Judge was vacationing and the case was once again postponed. After consultations with three psychiatrists, Mr. G. was declared competent.

Mr. G.'s case was finally placed on the trial calendar for October 30, 1972. On that date, the defense appeared, ready for

trial, only to find that the Assistant District Attorney who had been assigned to the case was in trial on another matter. The Judge, noting that Mr. G. had been held without trial for more than two years, adjourned the case to November 2 and ordered the District Attorney to be ready for trial on that date. On November 2, when the case was called, the Assistant District Attorney present declared that the People were still not prepared for trial. The Judge reluctantly adjourned the case once more, to November 27, 1972.

Ralph G. has now been in prison for more than two years, adjourned the case to November 2 and ordered the District Attorney to be ready for trial on that date. On November 2, when the case was called, the Assistant District Attorney present declared that the People were still not prepared for trial. The Judge reluctantly adjourned the case once more, to November 27, 1972.

Ralph G. has now been in prison for more than two years awaiting trial. His first attorney made no effort during the first 17 months of his incarceration to prepare the case for trial. Mr. G. remains in custody today, with no certainty as to when his case will reach its conclusion. And the murders of two citizens remain unresolved. Mr. G.'s case stands as tragic evidence of the fact that the tremendous volume of business moving through the Criminal Justice System continues to cloak each defendant with anonymity and obscure the performance of each attorney, so that incompetent or disinterested lawyers are free to let their cases stagnate, unhurried by an increasingly overburdened court.

## Postscript...

On February 2, 1973, Ralph G. was acquitted of the charges against him. It was his second trial; the first ended in a hung jury on December 22, 1973.

## Punish lawbreakers ....

Institution adopted the following principles at its first meeting in 1870:

—Reformation, not vindictive suffering, should be the purpose of the penal treatment of prisoners.

—The prisoner should be made to realize that his destiny is in his own hands.

—Prison discipline should be such as to gain the will of the prisoner and conserve his self respect.

—The aim of the prison should be to make industrious free men rather than orderly and obedient prisoners.

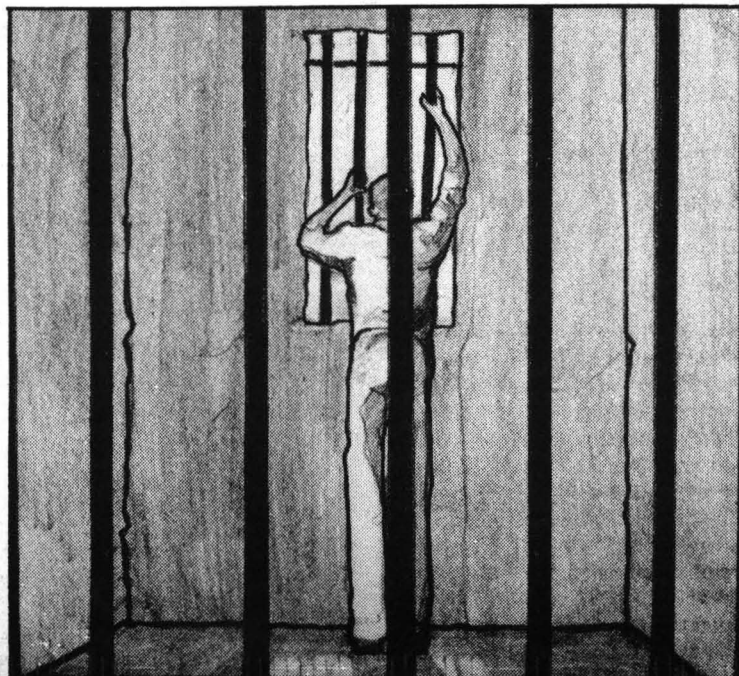
Yet, Chief Justice Taft could state as late as 1928: "The chief purpose of the prosecution of crime is to punish the criminal and to deter others from doing the same thing because of penal consequences... It is a mistake of huge proportion to lead criminals by pampering them, and by relaxing discipline of them and the harshness of prison life, to think that they are wards of the state for their comfort, entertainment and support."

The various functions of punishment have at least one thing in common—the attempt to maintain stability and conformity in the social order. Any theory is incomplete; rehabilitation does not rehabilitate and the crime rates seem to indicate that prisons do not deter crime even among those who have served their time and were released. Perhaps Emile Durkheim, the sociologist, comes closest to the truth about the actual purpose of punishment. He said that formal punishment for crime cannot be explained by any of the functions ascribed to it. It is rather a ceremonial affirmation of the values of the society, values which have been violated and challenged by crime. To punish for murder is not to instill fear in the hearts of potential murderers, but to reaffirm the society's belief in the sanctity of life.

institutions are serving our society well. Perhaps this is because we are not certain about what we expect them to do. As vengeance, they do not restore the victim; as rehabilitation, they send the inmates back to the same streets. What about so-called "white-collar" crimes? Will the confinement of Clifford Irving prevent him from harming others? Or is the fact that he was caught sufficient? Will he be rehabilitated? What about a person who is jailed for violation of social or economic legislation? Is he dangerous?

After posing these questions, Durkheim's theory seems even more credible. The society, through its legislature, articulates its values, its sense of right and wrong. When these are violated, the society must take some action. We are no safer because of this, the victim is no less injured. Yet the society must register its disapproval of a criminal act, for if it failed to do so the stability of institutions would be threatened because people would cease to believe in their legitimacy. For an institution to be legitimate it must uphold the values of the larger society. If it fails, to do so it will crumble, and those in power will try to prevent this. They will choose to perpetuate a system that does not achieve its supposed aims because they see no other alternative.

One thing is clear. Our penal





# Letters

## "A View from the inside"

WHAT IS THIS INSTITUTION ALL ABOUT? WHAT ROLE DOES IT PLAY IN THE REHABILITATION OF WOMEN? WHAT SKILLS DOES IT HAVE TO OFFER? HOW DOES IT PREPARE AN INMATE FOR THE SOCIETY THAT PUT THEM THERE? IN WHAT WAYS DOES IT TEACH SELF AWARENESS?

This institution was designed as a place for punishment, a place to house any woman regardless of race, creed or color, who rebelled in any way against the capitalistic society in which we live. As it turns out, the women are being punished inside the jails. On the average they are stripped of all identity that they can intimately relate to as being an animal of higher learning. Sure there is a school to attend, but what they don't teach in the school is how to be civil towards each other. And outside the school they are so busy trying to keep you unaware of what's going on that there is very little concern for the general health and welfare of the women they house.

Rehabilitation, in the sense of the word is the biggest farce to hit the eastern coast since the Emancipation Proclamation. I ask you, can you really hope to reform a person who ran away from home by putting them in the same cell as an accused murderer? Or a woman who was arrested on a morals charge (prostitution) in the same cell with a professional thief? Or a woman who had a common fight, with a hard core drug addict? I'll leave the answers to these questions to your own common sense.

Skills, Ha! The only skills to be learned here is how to become a better whatever you were arrested for. There is absolutely no training of the mind for advancement in the way of employment or self independence, outside of a jive sewing room that would only train you for factory work. There is also a Theater for the Forgotten, who will probably be forgotten as soon as the last show is over. There is no guarantee for employment once they leave the institution.

There is no preparation for a woman leaving this institution unless she is going to some type of live-in program, where she is programmed to do what they think is best for her. If she is leaving to try and make it on her own, she is given a welfare check for \$35, to supply her food, and a check for one week's rent, after this runs out, she must go to the

welfare department for support until she can get a job. Not being trained for anything, she will either be hassled back and forth or resort to whatever means she can to survive.

To go into the subject of self-awareness is a very tender and sad thing. There are so many ignorant women here until it's almost unbearable. They know nothing about where they come from or where they're going. A lot of women don't even know the necessary things about their personal body that all women should know. Thus leaving them in a state of mind so as to always accept the word of someone else, regardless to the amount of truth in it.

I say if society is so interested in the reform of the women it puts behind these cold, lifeless bars, then it is the responsibility of society to see to it that the women who are confined to them be properly educated and trained. If no one gives a damn, then nothing is ever going to happen to better those who were caught up in the middle of an economic struggle, or eviction of shelter.

I urge everyone who has any valid word in the matter to step forward now to help these women and women like them, who were not caught in the act of survival.

Women's House,  
Riker's Island

## TO WHOM IT MAY CONCERN:

While existing here in Rikers Island my eyes have witnessed the many cruel and unusual inhuman punishments that so many inmates are victims of, some because of their religious beliefs and others because of their strong belief in human rights. This institution is based upon destroying the lives of human beings rather than helping them to compel themselves towards building a better bridge towards happiness and success, the many trials that a inmate must go through in order to maintain their sense of pride, or perhaps their manhood is something that the world should know, that while so many black families are led to believe that their younger ones who are confined or housed here are learning self-enbetterment, they are victims of injustice. I want the world to know that this Institution is being run by, a house of madmen, who get their pleasures out of hurting, tormenting or breaking down the lives of the less fortunate inmates that are so cruelly confined within the walls of this pit or tomb of eternal hell, I want the world to know black mothers and black fathers that there is no hope for the poor blacks that come to this institution, I want the world to know what really

goes on behind the walls of the mighty Rikers Island.

While they are building new buildings, and telling the world that they are for the purpose of bettering the conditions for inmates, inside of the walls their mass system is destroying the manhood of hundreds of inmates, who have no power to strike back, picking out 5 here and 5 there and placing them in special confinements so as to weaken their morals, and then the world wonders why, so many inmates continue to hang up.

Tormenting inmates seems to be their specialty, or should I say the specialty of Captain Baines and Dep. Jenkins, handcuffing an inmate until his wrists drip with blood, or locking up an inmate in a dirty stinking cell with nothing on and then come by every now and then to make jokes at him, or taking a man because he is a Muslim or a Sumni Muslim who believes in Allah, they take these inmates and place them in segregation, torment them and pray that they step out of line so that they can split a head. I am only one of the thousands who have been a victim of this cruel and unusual Punishment.



And I feel that I will fail unless I tell the world, what goes on behind these walls. My life is in danger for standing up and telling the truth. And just for the records, Captain Baines and Dep. Jenkins are madmen, with no human feelings. They are so corrupted that they can't even get along with their own officers they hate them. No one can stand them or their wicked ways, but what can an officer do, the minute they speak up for the rights of an inmate, their job is at stake, Captain Baines and Dep. Jenkins, they get some kind of a sexual kick out of tormenting or hurting an inmate, they are sick and need to be placed in an institution themselves. Well I could go on for days telling about these two men and more but what good does it do unless you are concerned?

I would be happy to speak face to face with you one day. Thank you for your time, attention, and consideration.

Yours Sincerely,  
(NAME WITHHELD)

In jail we are politically invisible. We are the dispossessed at the bottom of society and are unable to speak for ourselves. And on

year's class is also producing a 200-page handbook for inmates on criminal procedure, civil law and prisoners' rights that could be circulated to prisoners throughout the country, with some modifications for differences in state laws.

That NYU has sponsored this program shows the beginnings of a recognition that, while to be an inmate is to be gone from humanity, to be a woman inmate is to be gone and forgotten. If men have no time to help our sisters, we will begin to help them ourselves—as we should have long ago.

top of this we are almost invisible to the rest of society. We are large in number, yet it takes an effort of the intellect and will for the "average" person on the outside to "see" us. We are percentages and numbers in long, close lines. Our part of America is hidden, it is way off the beaten track. The "affluent society" has never really been here.

Most of the inmates are pessimistic and defeated, we are victimized by mental suffering to a degree unknown to most on the outside.

The failures, the unskilled, the disabled—mental and physical, and the minorities are here. But hardly anyone else is.

There are sociological and political reasons why we are not "seen"—and there are misconceptions and prejudices that blind the eye.

Most prisoners will never really have a chance to stay out of jail or institutions. They are going downward and stay that way. For reasons beyond their control, most need help and cannot get it—and they can't help themselves. We can say this in two ways. Most inmates are caught in a vicious circle, or,

step in breaking down this prejudice.

(Name Withheld)  
Rikers Island Hospital

There is no need to go into a long drawn out explanation of the nasty slaughter that took place at Attica, September 13, 1971, which took the precious lives of 34 inmates and the lives of 9 prison officers and civilian workers who were the victims of their own long perpetrated oppressive actions.

I would like to shed a little light on the deceitfulness of the so-called Prison Reform Program. I ask you, what is any kind of program without the correct people to carry it out? Nothing, but paper work! The success of any program depends upon the calibre of people carrying it out.

Well, the very people that aided and abetted the storm troopers in their vicious and inhuman attack upon the inmates at Attica, are still around waiting for another opportunity to display their brute force, and such people are Guidance Counselors, Parole Officers, Civilian Workers. The orgy of violence that was committed in the name of "The Further Interest of New York State", should indicate the great need for a Reform Program for those who participated in this infamous historical event of violence.

The oppressive acts at Attica, that lead to the just uprising of September 9-13, 1971, will be perpetrated more so now that the Federal Government has stepped in. They have furnished the New York State Penal System with the money to purchase more sophisticated warlike equipment to subdue any further uprising.

Such an act on behalf of the Federal Government can only further inflame the New York State Penal Officials' passions to kill and injure. Being that oppression WAS, AND IS, the order of the day in the New York Penal System, just imagine what it will be like now that they have the very tools of modern day oppression, namely; sub-machine guns, shotguns, riot helmets, shields, sticks, etc., at their disposal. This will prove very dangerous, especially in this new maxi-maxi prison being talked about; for those men who are willing to stand up for their beliefs. Once again, just imagine the calibre of people running the New York State Penal System, September 13, 1971, climaxed the manner of people they are and bears me witness that they are not fit to run or help in running the New York State Penal System.

Peace,  
(NAME WITHHELD)

# Possibilities

N.Y.U. is now offering a clinical course in criminal law called the "Women's Prison Project", a course designed to help train women to be jailhouse lawyers and to help women inmates to help themselves.

Professors Haft and Herman travel with nine women students and three or four volunteer attorneys each Tuesday evening to the Bedford Hills State Prison. Here they give a practical course in criminal procedure and criminal constitutional law. Interest in the course among inmates is high with some 50 to 80 of the 350 inmates attending regular classes-classes which cut into their leisure time. Some family law is also included in the course but the primary objective

of the students is not merely to impart knowledge but to help build a sense of self-confidence and respect. Through the Project's efforts this women's prison received a law library similar to those being given to other institutions but which the women would never have gotten without the Project's help.

In addition to the weekly trips upstate, the law students in the Clinic meet at the N.Y.U. School of Law with Professors Haft and Herman once a week for a two-hour seminar. "Our own students get invaluable practical experience through direct contact with the problems of women offenders," says Professor Hanft. "In the seminar we try to interpret and digest it." This

## The Advocate

## Needs Your Help

Come to our Organizational Meeting Friday, October 12 at 12:30 in the Advocate office or sign your name to the sheet on the bulletin board. in the basement.

On Tuesday, October 16th at 4:00 The Advocate will sponsor a slide show and talk concerning a Stamford Professor's experiments in recreating a prison environment . . . the results were incredible and the presentation is very interesting.